

Adopted	Rejected
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## COMMITTEE REPORT

YES:	9
NO:	1

### MR. SPEAKER:

*Your Committee on* Courts and Criminal Code, to which was referred House Bill 1006, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1       Page 51, delete lines 32 through 42.
- 2       Page 52, delete lines 1 through 35, begin a new paragraph and
- 3       insert:
- 4       "SECTION 44. IC 31-30-1-4, AS AMENDED BY P.L.158-2013,
- 5       SECTION 315, AND AS AMENDED BY P.L.214-2013, SECTION
- 6       25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 7       [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The juvenile court does not
- 8       have jurisdiction over an individual for an alleged violation of:
- 9       (1) IC 35-41-5-1(a) (attempted murder);
- 10       (2) IC 35-42-1-1 (murder);
- 11       (3) IC 35-42-3-2 (kidnapping);
- 12       (4) IC 35-42-4-1 (rape);
- 13       (5) IC 35-42-4-2 (criminal deviate conduct) ~~(repealed)~~; **(before**
- 14       **its repeal)**;
- 15       (6) IC 35-42-5-1 (robbery) if:
- 16       (A) the robbery was committed while armed with a deadly

1           weapon; or  
 2           (B) the robbery results in bodily injury or serious bodily  
 3           injury;  
 4           (7) IC 35-42-5-2 (carjacking) ~~(repealed)~~; **(before its repeal)**;  
 5           ~~(8) IC 35-45-9-3 (criminal gang activity);~~  
 6           ~~(9) IC 35-45-9-4 (criminal gang intimidation);~~  
 7           ~~(10) (8) IC 35-47-2-1 (carrying a handgun without a license), if~~  
 8           charged as a felony;  
 9           ~~(11) (9) IC 35-47-10 (children and firearms), if charged as a~~  
 10          felony;  
 11          ~~(12) (10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or~~  
 12          ~~(13) (11) any offense that may be joined under IC 35-34-1-9(a)(2)~~  
 13          with any crime listed in subdivisions (1) through ~~(12)~~; **(10)**;  
 14          if the individual was at least sixteen (16) years of age at the time of the  
 15          alleged violation.  
 16          **(b) The juvenile court does not have jurisdiction for an alleged**  
 17          **violation of manufacturing or dealing in cocaine or a narcotic drug (IC**  
 18          **35-48-4-1); dealing in methamphetamine (IC 35-48-4-1.1); dealing in**  
 19          **a schedule I, II, or III controlled substance (IC 35-48-4-2); or dealing**  
 20          **in a schedule IV controlled substance (IC 35-48-4-3); if:**  
 21                  **(1) the individual has a prior unrelated conviction under**  
 22                  **IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or**  
 23                  **(2) the individual has a prior unrelated juvenile adjudication that,**  
 24                  **if committed by an adult, would be a crime under IC 35-48-4-1,**  
 25                  **IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;**  
 26          **and the individual was at least sixteen (16) years of age at the time of**  
 27          **the alleged violation.**  
 28          **(c) (b) Once an individual described in subsection (a) or (b) has**  
 29          been charged with any crime listed in subsection (a), ~~or (b)~~; the court  
 30          having adult criminal jurisdiction shall retain jurisdiction over the case  
 31          even if the individual pleads guilty to or is convicted of a lesser  
 32          included offense. A plea of guilty to or a conviction of a lesser included  
 33          offense does not vest jurisdiction in the juvenile court."  
 34          Page 65, between lines 9 and 10, begin a new paragraph and insert:  
 35          "SECTION 54. IC 35-31.5-2-38.5 IS ADDED TO THE INDIANA  
 36          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37          [EFFECTIVE JULY 1, 2014]: **Sec. 38.5. "Child care facility" means**  
 38          **a:**

- (1) child care center licensed under IC 12-17.2-4;**
- (2) child care home licensed under IC 12-17.2-5; or**
- (3) child care ministry licensed under IC 12-17.2-6."**

Page 71, delete lines 23 through 42, begin a new paragraph and insert:

"SECTION 65. IC 35-38-1-17, AS AMENDED BY P.L.158-2013, SECTION 396, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) **This section does not apply to a credit restricted felon.**

**(b) At any time Not later than three hundred sixty-five (365) days after:**

- (1) a convicted person begins serving the person's sentence; and**
- ~~(2) a hearing is held:~~
  - ~~(A) at which the convicted person is present; and~~
  - ~~(B) of which the prosecuting attorney has been notified; and~~
  - ~~(3) (2) the court obtains a report from the department of correction concerning the convicted person's conduct while imprisoned;~~

the court may reduce or suspend the sentence and impose a sentence that the court was authorized to impose at the time of sentencing. The court must incorporate its reasons in the record.

**(c) If more than three hundred sixty-five (365) days have elapsed since the convicted person began serving the sentence, the court may reduce or suspend the sentence and impose a sentence that the court was authorized to impose at the time of sentencing. The court must incorporate its reasons in the record.**

~~(b)~~ **(d) If the court sets a hearing on a petition under this section,** the court must give notice ~~of the order to reduce or suspend the sentence under this section~~ to the prosecuting attorney and the **prosecuting attorney must give notice to the** victim (as defined in IC 35-31.5-2-348) of the crime for which the convicted person is serving the sentence.

~~(e)~~ **(e)** The court may suspend a sentence for a felony under this section only if suspension is permitted under IC 35-50-2-2.2.

~~(d)~~ **(f)** The court may deny a request to suspend or reduce a sentence under this section without making written findings and conclusions.

~~(e)~~ **(g)** The court is not required to conduct a hearing before reducing or suspending a sentence **under this section** if:

(1) the prosecuting attorney has filed with the court an agreement of the reduction or suspension of the sentence; and

(2) the convicted person has filed with the court a waiver of the right to be present when the order to reduce or suspend the sentence is considered.

**(h) A convicted person may file a petition for sentence modification under this section:**

**(1) not more than one (1) time in any three hundred sixty-five (365) day period; and**

**(2) a maximum of two (2) times during any consecutive period of incarceration."**

Delete page 72.

Page 73, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 64. IC 35-38-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Except as provided in section 5.5 of this chapter, as a condition of probation a court may order an offender confined to the offender's home for a period of home detention lasting at least sixty (60) days.

(b) The period of home detention may be consecutive or nonconsecutive, as the court orders. However, the aggregate time actually spent in home detention must not exceed:

(1) the minimum term of imprisonment prescribed for a felony under IC 35-50-2; or

(2) the maximum term of imprisonment prescribed for a misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention to be provided by the probation department for the court or by a community corrections program that provides supervision of home detention.

(d) A person's term of confinement on home detention under this chapter is computed on the basis of the actual days the person spends on home detention.

(e) A person confined on home detention as a condition of probation earns **one (1) day of credit for time served for each day the person is confined on home detention."**

Page 112, delete lines 19 through 40, begin a new paragraph and insert:

"SECTION 94. IC 35-48-1-16.5, AS ADDED BY P.L.158-2013, SECTION 619, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16.5. "Enhancing circumstance" means one (1) or more of the following:

(1) The person has a prior conviction, **in any jurisdiction**, for dealing in a controlled substance that is not marijuana, hashish, hash oil, salvia divinorum, or a synthetic drug, **including an attempt or conspiracy to commit the offense.**

(2) The person committed the offense while in possession of a firearm.

(3) The person committed the offense:

(A) on a school bus; or

(B) in, on, or within ~~five~~ **two** hundred ~~(500)~~ **fifty (250)** feet of:

(i) school property; ~~while a person under eighteen (18) years of age was reasonably expected to be present; or~~

(ii) a public park; ~~while a person under eighteen (18) years of age was reasonably expected to be present.~~

**(iii) a family housing complex; or**

**(iv) a child care facility.**

(4) The person delivered or financed the delivery of the drug to a person under eighteen (18) years of age at least three (3) years junior to the person.

(5) The person manufactured or financed the manufacture of the drug.

**(6) The person committed the offense in the physical presence of a child less than eighteen (18) years of age, knowing that the child was present and might be able to see or hear the offense.**

SECTION 95. IC 35-48-4-1, AS AMENDED BY P.L.158-2013, SECTION 622, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II;

commits dealing in cocaine or a narcotic drug, a ~~Level 5~~ **Level 4** felony, except as provided in subsections (b) through ~~(d)~~: **(c)**.

(b) The offense is a ~~Level 4~~ **Level 3** felony if:

- (1) the amount of the drug involved is at least three (3) but less than ten (10) grams; or
- (2) the amount of the drug involved is less than three (3) grams and an enhancing circumstance applies.

(c) The offense is a ~~Level 3~~ **Level 2** felony if:

- (1) the amount of the drug involved is at least ten (10) ~~but less than twenty-eight (28)~~ grams; or
- (2) the amount of the drug involved is at least three (3) but less than ten (10) grams and an enhancing circumstance applies.

~~(d) The offense is a Level 2 felony if:~~

- ~~(1) the amount of the drug involved is at least twenty-eight (28) grams; or~~
- ~~(2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.~~

SECTION 96. IC 35-48-4-1.1, AS AMENDED BY P.L.158-2013, SECTION 623, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or

(D) finance the delivery of;  
 methamphetamine, pure or adulterated;  
 commits dealing in methamphetamine, a ~~Level 5~~ **Level 4** felony, except  
 as provided in subsections (b) through ~~(d)~~: **(c)**.

(b) The offense is a ~~Level 4~~ **Level 3** felony if:

(1) the amount of the drug involved is at least three (3) but less  
 than ten (10) grams; or

(2) the amount of the drug involved is less than three (3) grams  
 and an enhancing circumstance applies.

(c) The offense is a ~~Level 3~~ **Level 2** felony if:

(1) the amount of the drug involved is at least ten (10) ~~but less~~  
~~than twenty-eight (28) grams; or~~

(2) the amount of the drug involved is at least three (3) but less  
 than ten (10) grams and an enhancing circumstance applies;

~~(d) The offense is a Level 2 felony if:~~

~~(1) the amount of the drug involved is at least twenty-eight (28)~~  
~~grams;~~

~~(2) the amount of the drug involved is at least ten (10) but less~~  
~~than twenty-eight (28) grams and an enhancing circumstance~~  
~~applies; or~~

~~(3) the person is manufacturing the drug and the manufacture~~  
~~results in an explosion causing serious bodily injury to a person~~  
~~other than the manufacturer."~~

Page 115, delete lines 24 through 42, begin a new paragraph and  
 insert:

"SECTION 99. IC 35-48-4-10.5, AS ADDED BY P.L.196-2013,  
 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2014]: Sec. 10.5. (a) A person who:

(1) manufactures;

(2) finances the manufacture of;

(3) delivers;

(4) finances the delivery of;

(5) possesses, with intent to deliver; or

(6) possesses, with intent to finance the delivery of;

a synthetic drug or a synthetic drug lookalike substance commits  
 dealing in a synthetic drug or synthetic drug lookalike substance, a  
 Class A infraction. However, the offense is a ~~Class B~~ **Level 6** felony if  
 the offense is committed knowingly or intentionally and the person has

a prior unrelated judgment or conviction under this subsection.

(b) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a synthetic drug or synthetic drug lookalike substance; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a synthetic drug or synthetic drug lookalike substance;

commits dealing in a synthetic drug or synthetic drug lookalike substance, a Class A misdemeanor, except as provided in subsection

(c).

(c) The offense in subsection (b) is:

(1) a ~~Class D~~ **Level 6** felony if:

(A) the recipient or intended recipient is less than eighteen

(18) years of age;

(B) the amount involved is more than two (2) grams; or

(C) the person has a prior conviction of an offense involving a synthetic drug or synthetic drug lookalike substance; and

(2) a ~~Class E~~ **Level 5** felony if the amount involved is more than two (2) grams and the person delivered or financed the delivery of the synthetic drug or synthetic drug lookalike substance:

(A) on a school bus; or

(B) in, on, or within ~~five~~ **two** hundred ~~(500)~~ **fifty (250)** feet of:

(i) school property; ~~or~~

(ii) a public park;

~~while a person under eighteen (18) years of age was reasonably expected to be present.~~

**(iii) a family housing complex; or**

**(iv) a child care facility.**

(d) In addition to a criminal or civil penalty imposed for a violation of this section, if the court finds that a person has violated this section and the violation involved the sale of or offer to sell, in the normal



course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate, the court:

(1) shall recommend the suspension of the registered retail merchant certificate for the place of business for one (1) year if the person's violation of this section resulted in a criminal conviction; and

(2) may recommend the suspension of the registered retail merchant certificate for the place of business for six (6) months if the person's violation of this section resulted in an adjudication that the person committed an infraction.

(e) The department of state revenue shall suspend the registered retail merchant certificate of a retail merchant in accordance with the recommendation of the court. Whenever the department of state revenue is required to suspend a retail merchant's registered retail merchant certificate under this section, the department shall immediately mail a notice to the retail merchant's address that must state that the retail merchant's registered retail merchant certificate will be suspended for the period recommended by the court, commencing five (5) days after the date of the notice."

Delete page 116.

Page 117, delete lines 1 through 9.

Page 118, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 103. IC 35-48-4-14.5, AS AMENDED BY P.L.193-2013, SECTION 7, AND AS AMENDED BY P.L.158-2013, SECTION 643, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

- 1 (6) Organic solvents.
- 2 (7) Hydrochloric acid.
- 3 (8) Lithium metal.
- 4 (9) Sodium metal.
- 5 (10) Ether.
- 6 (11) Sulfuric acid.
- 7 (12) Red phosphorous.
- 8 (13) Iodine.
- 9 (14) Sodium hydroxide (lye).
- 10 (15) Potassium dichromate.
- 11 (16) Sodium dichromate.
- 12 (17) Potassium permanganate.
- 13 (18) Chromium trioxide.
- 14 (19) Benzyl cyanide.
- 15 (20) Phenylacetic acid and its esters or salts.
- 16 (21) Piperidine and its salts.
- 17 (22) Methylamine and its salts.
- 18 (23) Isosafrole.
- 19 (24) Safrole.
- 20 (25) Piperonal.
- 21 (26) Hydriodic acid.
- 22 (27) Benzaldehyde.
- 23 (28) Nitroethane.
- 24 (29) Gamma-butyrolactone.
- 25 (30) White phosphorus.
- 26 (31) Hypophosphorous acid and its salts.
- 27 (32) Acetic anhydride.
- 28 (33) Benzyl chloride.
- 29 (34) Ammonium nitrate.
- 30 (35) Ammonium sulfate.
- 31 (36) Hydrogen peroxide.
- 32 (37) Thionyl chloride.
- 33 (38) Ethyl acetate.
- 34 (39) Pseudoephedrine hydrochloride.
- 35 (b) A person who possesses more than ten (10) grams of ephedrine,
- 36 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 37 commits a ~~Class D~~ Level 6 felony. However, the offense is a ~~Class C~~
- 38 Level 5 felony if the person possessed:

(1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within ~~one thousand (1,000)~~ **five two hundred (500) fifty (250)** feet of:

(A) school property; ~~while a person under eighteen (18) years of age was reasonably expected to be present; or~~

(B) a public park; ~~while a person under eighteen (18) years of age was reasonably expected to be present.~~

(C) a family housing complex; or

~~(D) a youth program center.~~

**(D) a child care facility.**

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a ~~Class D Level 6~~ felony. However, the offense is a ~~Class C Level 5~~ felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within ~~one thousand (1,000)~~ **five two hundred (500) fifty (250)** feet of:

(A) school property; ~~while a person under eighteen (18) years of age was reasonably expected to be present; or~~

(B) a public park; ~~while a person under eighteen (18) years of age was reasonably expected to be present.~~

(C) a family housing complex; or

~~(D) a youth program center.~~

**(D) a child care facility.**

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular

1 course of lawful business activities; or

2 (2) person who possesses more than ten (10) grams of a substance  
3 described in subsection (b) if the substance is possessed under  
4 circumstances consistent with typical medicinal or household use,  
5 including:

6 (A) the location in which the substance is stored;

7 (B) the possession of the substance in a variety of:

8 (i) strengths;

9 (ii) brands; or

10 (iii) types; or

11 (C) the possession of the substance:

12 (i) with different expiration dates; or

13 (ii) in forms used for different purposes.

14 (e) A person who possesses two (2) or more chemical reagents or  
15 precursors with the intent to manufacture a controlled substance  
16 commits a ~~Class D~~ Level 6 felony.

17 (f) An offense under subsection (e) is a ~~Class C~~ Level 5 felony if the  
18 person possessed:

19 (1) a firearm while possessing two (2) or more chemical reagents  
20 or precursors with intent to manufacture a controlled substance;

21 or

22 (2) two (2) or more chemical reagents or precursors with intent to  
23 manufacture a controlled substance in, on, or within ~~one thousand~~  
24 ~~(1,000)~~ **five two hundred (500) fifty (250)** feet of:

25 (A) school property; ~~while a person under eighteen (18) years~~  
26 ~~of age was reasonably expected to be present; or~~

27 (B) a public park; ~~while a person under eighteen (18) years of~~  
28 ~~age was reasonably expected to be present.~~

29 (C) a family housing complex; or

30 ~~(D) a youth program center.~~

31 **(D) a child care facility.**

32 (g) A person who sells, transfers, distributes, or furnishes a chemical  
33 reagent or precursor to another person with knowledge or the intent that  
34 the recipient will use the chemical reagent or precursors to manufacture  
35 a controlled substance commits unlawful sale of a precursor, a ~~Class D~~  
36 ~~Level 6~~ felony. *However, the offense is a **Class C Level 5** felony if the*  
37 *person sells, transfers, distributes, or furnishes more than ten (10)*  
38 *grams of ephedrine, pseudoephedrine, or phenylpropanolamine.*

(h) This subsection does not apply to a drug containing ephedrine, pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of:

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));

(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));

(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); or

(E) unlawful sale of a precursor (subsection (g)); and

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a ~~Class D~~ **Level 6** felony.

SECTION 104. IC 35-48-4-16, AS AMENDED BY P.L.158-2013, SECTION 644, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) For an offense under this chapter that requires proof of:

(1) delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

(2) financing the delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance; or

(3) possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

within ~~five two~~ hundred ~~(500)~~ **fifty (250)** feet of school property, or a public park, ~~while a person less than eighteen (18) years of age was reasonably expected to be present, a family housing complex, or a child care facility,~~ the person charged may assert the defense in subsection (b). ~~or (c):~~

(b) It is a defense for a person charged under this chapter with an offense that contains an element listed in subsection (a) that:

(1) a person was briefly in, on, or within five hundred ~~(500)~~ feet of school property or a public park while a person less than

1       ~~eighteen (18) years of age was reasonably expected to be present;~~  
 2       ~~and~~  
 3       ~~(2) no person under eighteen (18) years of age at least three (3)~~  
 4       ~~years junior to the person was in, on, or within five hundred (500)~~  
 5       ~~feet of the school property or public park at the time of the~~  
 6       ~~offense.~~

7       ~~(c)~~ **(b)** It is a defense for a person charged under this chapter with  
 8       an offense that contains an element listed in subsection (a) that a  
 9       person was in, on, or within ~~five two~~ hundred ~~(500)~~ **fifty (250)** feet of  
 10      school property, ~~or a public park, a family housing complex, or a~~  
 11      **child care facility**

12       ~~(1)~~ at the request or suggestion of a law enforcement officer or an  
 13      agent of a law enforcement officer. ~~and~~

14       ~~(2) while a person less than eighteen (18) years of age was~~  
 15      ~~reasonably expected to be present.~~

16       ~~(d)~~ **(c)** The defense under this section applies only to the element of  
 17      the offense that requires proof that the delivery, financing of the  
 18      delivery, or possession of cocaine, a narcotic drug, methamphetamine,  
 19      or a controlled substance occurred in, on, or within ~~five two~~ hundred  
 20      ~~(500)~~ **fifty (250)** feet of school property, ~~or a public park, while a~~  
 21      ~~person less than eighteen (18) years of age was reasonably expected to~~  
 22      ~~be present. a family housing complex, or a child care facility."~~

23      Delete pages 119 through 120.

24      Page 121, delete lines 1 through 38.

25      Page 126, delete lines 16 through 29, begin a new paragraph and  
 26      insert:

27      "SECTION 110. IC 35-50-2-2.2, AS ADDED BY P.L.158-2013,  
 28      SECTION 654, IS AMENDED TO READ AS FOLLOWS  
 29      [EFFECTIVE JULY 1, 2014]: Sec. 2.2. (a) Except as provided in  
 30      subsection (b) or (c) the court may suspend any part of a sentence for  
 31      a felony.

32      (b) If a person is convicted of ~~a Level 1 felony or a Level 2 felony~~  
 33      **or a Level 3 felony, except a Level 2 felony or a Level 3 felony**  
 34      **concerning a controlled substance under IC 35-48-4**, and has any  
 35      prior unrelated felony conviction, the court may suspend only that part  
 36      of a sentence that is in excess of the minimum sentence for the:

37       (1) ~~Level 1~~ **Level 2** felony; or

38       (2) ~~Level 2~~ **Level 3** felony.

(c) The court may suspend only that part of a sentence for murder **or a Level 1 felony conviction** that is in excess of the minimum sentence for murder **or the Level 1 felony conviction.**"

Page 136, delete line 42, begin a new paragraph and insert:

"SECTION 117. IC 35-50-6-3, AS AMENDED BY P.L.158-2013, SECTION 667, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) This section applies to a person ~~convicted~~ **who commits an offense** before July 1, 2014.

(b) A person assigned to Class I earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class II earns one (1) day of credit time for every two (2) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

(d) A person assigned to Class III earns no credit time.

(e) A person assigned to Class IV earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

SECTION 118. IC 35-50-6-3.1, AS ADDED BY P.L.158-2013, SECTION 668, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3.1. (a) This section applies to a person ~~convicted~~ **who commits an offense** after June 30, 2014.

**(b) A person assigned to Class A earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting sentencing.**

~~(b)~~ **(c)** A person assigned to ~~Class A~~ **Class B** earns one (1) day of credit time for every three (3) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

~~(c)~~ **(d)** A person assigned to ~~Class B~~ **Class C** earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

~~(d)~~ **(e)** A person assigned to ~~Class C~~ **Class D** earns no credit time.

SECTION 119. IC 35-50-6-3.3, AS AMENDED BY P.L.158-2013, SECTION 669, AND AS AMENDED BY P.L.214-2013, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

(1) is in credit Class I, ~~or Class A~~, **or Class B**;

(2) has demonstrated a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.

(B) Except as provided in subsection ~~(n)~~, **(o)**, a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.

(C) An ~~associate's~~ *associate* degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) *earned during the person's incarceration*.

(D) A ~~bachelor's~~ *bachelor* degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) *earned during the person's incarceration*.

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

(1) is in credit Class I, ~~or Class A~~, **or Class B**;

(2) demonstrates a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical *or vocational* education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(D) A certificate of completion of a reformatory program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study. *The department of correction, in consultation with the department of workforce development, shall approve a program only if the program is likely to*



1 *lead to an employable occupation.*

2 (d) The amount of credit time a person may earn under this section  
3 is the following:

4 (1) Six (6) months for completion of a state of Indiana general  
5 educational development (GED) diploma under IC 20-20-6  
6 (before its repeal) or IC 22-4.1-18.

7 (2) One (1) year for graduation from high school.

8 (3) ~~One~~ *Not more than one* (1) year for completion of an  
9 ~~associate's~~ *associate* degree.

10 (4) ~~Two~~ *Not more than two* (2) years for completion of a  
11 ~~bachelor's~~ *bachelor* degree.

12 (5) Not more than a total of ~~six (6) months~~ *one (1) year* of credit,  
13 as determined by the department of correction, for the completion  
14 of one (1) or more career and technical *or vocational* education  
15 programs approved by the department of correction.

16 (6) Not more than a total of six (6) months of credit, as  
17 determined by the department of correction, for the completion of  
18 one (1) or more substance abuse programs approved by the  
19 department of correction.

20 (7) Not more than a total of six (6) months credit, as determined  
21 by the department of correction, for the completion of one (1) or  
22 more literacy and basic life skills programs approved by the  
23 department of correction.

24 (8) Not more than a total of six (6) months credit time, as  
25 determined by the department of correction, for completion of one  
26 (1) or more reformatory programs approved by the department of  
27 correction. However, a person who is serving a sentence for an  
28 offense listed under IC 11-8-8-4.5 may not earn credit time under  
29 this subdivision.

30 However, a person who does not have a substance abuse problem that  
31 qualifies the person to earn credit in a substance abuse program may  
32 earn not more than a total of twelve (12) months of credit, as  
33 determined by the department of correction, for the completion of one  
34 (1) or more career and technical *or vocational* education programs  
35 approved by the department of correction. If a person earns more than  
36 six (6) months of credit for the completion of one (1) or more career  
37 and technical education programs, the person is ineligible to earn credit  
38 for the completion of one (1) or more substance abuse programs.

1       (e) Credit time earned under this section must be directly  
 2       proportional to the time served and course work completed while  
 3       incarcerated. The department of correction shall adopt rules under  
 4       IC 4-22-2 necessary to implement this subsection.

5       ~~(e)~~ (f) Credit time earned by a person under this section is subtracted  
 6       from the release date that would otherwise apply to ~~period of~~  
 7       ~~imprisonment imposed on~~ the person by the sentencing court after  
 8       subtracting all other credit time earned by the person.

9       ~~(f)~~ (g) A person does not earn credit time under subsection (a)  
 10       unless the person completes at least a portion of the degree  
 11       requirements after June 30, 1993.

12       ~~(g)~~ (h) A person does not earn credit time under subsection (b)  
 13       unless the person completes at least a portion of the program  
 14       requirements after June 30, 1999.

15       ~~(h)~~ (i) Credit time earned by a person under subsection (a) for a  
 16       diploma or degree completed before July 1, 1999, shall be subtracted  
 17       from:

18       (1) the release date that would otherwise apply to the person after  
 19       subtracting all other credit time earned by the person, if the  
 20       person has not been convicted of an offense described in  
 21       subdivision (2); or

22       (2) the period of imprisonment imposed on the person by the  
 23       sentencing court, if the person has been convicted of one (1) of  
 24       the following crimes:

25       (A) Rape (IC 35-42-4-1).

26       (B) Criminal deviate conduct (IC 35-42-4-2) ~~(repealed)~~.  
 27       **(before its repeal).**

28       (C) Child molesting (IC 35-42-4-3).

29       (D) Child exploitation (IC 35-42-4-4(b)).

30       (E) Vicarious sexual gratification (IC 35-42-4-5).

31       (F) Child solicitation (IC 35-42-4-6).

32       (G) Child seduction (IC 35-42-4-7).

33       (H) Sexual misconduct with a minor (IC 35-42-4-9) as a:

34       (i) Class A felony, Class B felony, or Class C felony  
 35       ~~(IC 35-42-4-9); for a crime committed before July 1, 2014;~~  
 36       or

37       (ii) Level 1, Level 2, or Level 4 felony, for a crime  
 38       committed after June 30, 2014.

- 1 (I) Incest (IC 35-46-1-3).
- 2 (J) Sexual battery (IC 35-42-4-8).
- 3 (K) Kidnapping (IC 35-42-3-2), if the victim is less than
- 4 eighteen (18) years of age.
- 5 (L) Criminal confinement (IC 35-42-3-3), if the victim is less
- 6 than eighteen (18) years of age.
- 7 (M) An attempt or a conspiracy to commit a crime listed in
- 8 clauses (A) through (L).
- 9 ~~(j)~~ (j) The maximum amount of credit time a person may earn under
- 10 this section is the lesser of:
- 11 (1) ~~four~~ ~~(4)~~ two (2) years; or
- 12 (2) one-third (1/3) of the person's total applicable credit time.
- 13 ~~(k)~~ (k) Credit time earned under this section by an offender serving
- 14 a sentence for a felony against a person under IC 35-42 or for a crime
- 15 listed in IC 11-8-8-5 shall be reduced to the extent that application of
- 16 the credit time would otherwise result in:
- 17 (1) postconviction release (as defined in IC 35-40-4-6); or
- 18 (2) assignment of the person to a community transition program;
- 19 in less than forty-five (45) days after the person earns the credit time.
- 20 ~~(l)~~ (l) A person may earn credit time for multiple degrees at the
- 21 same education level under subsection (d) only in accordance with
- 22 guidelines approved by the department of correction. The department
- 23 of correction may approve guidelines for proper sequence of education
- 24 degrees under subsection (d).
- 25 ~~(m)~~ (m) A person may not earn credit time:
- 26 (1) for a general educational development (GED) diploma if the
- 27 person has previously earned a high school diploma; or
- 28 (2) for a high school diploma if the person has previously earned
- 29 a general educational development (GED) diploma.
- 30 ~~(n)~~ (n) A person may not earn credit time under this section if the
- 31 person:
- 32 (1) commits an offense listed in IC 11-8-8-4.5 while the person is
- 33 required to register as a sex or violent offender under IC 11-8-8-7;
- 34 and
- 35 (2) is committed to the department of correction after being
- 36 convicted of the offense listed in IC 11-8-8-4.5.
- 37 ~~(o)~~ (o) For a person to earn credit time under subsection (a)(3)(B)
- 38 for successfully completing the requirements for a high school diploma

through correspondence courses, each correspondence course must be approved by the department before the person begins the correspondence course. The department may approve a correspondence course only if the entity administering the course is recognized and accredited by the department of education in the state where the entity is located.

SECTION 120. IC 35-50-6-4, AS AMENDED BY P.L.158-2013, SECTION 670, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. **(a) A person:**

**(1) who is not a credit restricted felon; and**

**(2) who is imprisoned for a Level 6 felony or a misdemeanor or imprisoned awaiting trial or sentencing for a Level 6 felony or misdemeanor;**

**is initially assigned to Class A.**

~~(a)~~ **(b)** A person:

**(1) who is not a credit restricted felon; and**

**(2) who is imprisoned for a crime other than a Level 6 felony or misdemeanor or imprisoned awaiting trial or sentencing for a crime other than a Level 6 felony or misdemeanor;**

**is initially assigned to ~~Class A~~ Class B.**

~~(b)~~ **(c)** A person who is a credit restricted felon and who is imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to ~~Class B~~ **Class C**. A credit restricted felon may not be assigned to Class A **or Class B**.

~~(c)~~ **(d)** A person who is not a credit restricted felon may be reassigned to ~~Class B~~ **Class C** or ~~Class C~~ **Class D** if the person violates any of the following:

**(1) A rule of the department of correction.**

**(2) A rule of the penal facility in which the person is imprisoned.**

**(3) A rule or condition of a community transition program.**

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

~~(d)~~ **(e)** A person who is a credit restricted felon may be reassigned to ~~Class C~~ **Class D** and a person who is assigned to Class IV may be

assigned to Class III if the person violates any of the following:

- (1) A rule of the department of correction.
- (2) A rule of the penal facility in which the person is imprisoned.
- (3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to Class III or ~~Class C~~, **Class D**, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

~~(e)~~ **(f)** In connection with the hearing granted under subsection ~~(e)~~ **(d)** or ~~(d)~~, **(e)**, the person is entitled to:

- (1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the alleged misconduct and the rule the misconduct is alleged to have violated;
- (2) have reasonable time to prepare for the hearing;
- (3) have an impartial decisionmaker;
- (4) appear and speak in the person's own behalf;
- (5) call witnesses and present evidence;
- (6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;
- (7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);
- (8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;
- (9) have immunity if the person's testimony or any evidence derived from the person's testimony is used in any criminal proceedings; and
- (10) have the person's record expunged of any reference to the charge if the person is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

~~(f)~~ **(g)** Except for a credit restricted felon, a person may be reassigned from:

- (1) Class III to Class I, Class II or Class IV;
- (2) Class II to Class I;
- (3) ~~Class C~~ **Class D** to Class A, ~~or Class B, or Class C;~~
- (4) ~~Class B Class C~~ to Class A **or Class B.**

A person's assignment to Class III, Class II, ~~Class B;~~ **or Class C, or Class D** shall be reviewed at least once every six (6) months to determine if the person should be reassigned to a higher credit time class. A credit restricted felon may not be reassigned to Class I or Class II or to Class A, ~~or Class B, or Class C.~~

SECTION 121. IC 35-50-6-5, AS AMENDED BY P.L.158-2013, SECTION 671, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a:
  - (A) community transition program; or
  - (B) community corrections program.
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.
- (6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, the person may also be reassigned to Class II (if the person is not a credit restricted felon) or Class III, ~~Class B;~~ **or Class C, or Class D.**

- (b) Before a person may be deprived of earned credit time, the

- 1 person must be granted a hearing to determine the person's guilt or  
2 innocence and, if found guilty, whether deprivation of earned credit  
3 time is an appropriate disciplinary action for the violation. In  
4 connection with the hearing, the person is entitled to the procedural  
5 safeguards listed in section 4(c) of this chapter. The person may waive  
6 the person's right to the hearing.  
7 (c) Any part of the credit time of which a person is deprived under  
8 this section may be restored."  
9 Delete pages 137 through 139.  
10 Page 140, delete lines 1 through 37.  
11 Renumber all SECTIONS consecutively.  
(Reference is to HB 1006 as introduced.)

**and when so amended that said bill do pass.**

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Representative McMillin